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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,584	05/15/2004	Ivan E. Petkov	drygear2	3583

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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/709,584	Applicant(s) PETKOV ET AL.	
	Examiner Joseph M. Pelham	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-12 and 14-18 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The Examiner acknowledges Applicant's submission of the amendment filed 1/3/07. Claims 1-12 and 14-18 remain pending. Excepting the 35 USC 112 rejection, this action repeats the rejections of the previous Office action.

Claim Rejections - 35 USC § 103

Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR2521408 (FR'408) in view of U.S. Pat. 5569401 (US'401) and US Pat. 2781439 (US'439).

The claims differ from FR'408 only in calling for a panel with a protective lining in the compartment and a reflective "outer" lining in the panel. However, US'401 discloses, at Figs. 2, 4, & 9, and col. 2, lines 34-56, a center panel comprising a partition 22 and a heating element 20, where the heater is inherently within the panel since it is inherently protected by insulating layers. Further, US'439 discloses, at Fig. 3 and col. 2, lines 15-18, a reflective lining 19 on the "outer" side of the heater 12 in a heating panel. It would have been obvious to form a center panel in the case of FR'408, after the manner of US'401, to more efficiently heat the contents of the case when a plurality of items are placed therein, such as ski boots; and it would have been obvious to adapt the reflective layer of US'439 to the heater of FR'408 in view of US'401 to more efficiently direct heat toward the items to be heated.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US'401 and US'439, as applied to claims 1-3 and 6 above, and further in view of US Pat. 2852861.

The claim differs from FR'408 in view of US'401 and US'439 only in reciting moisture collection means. US'861 discloses, at Figs. 1 and 2, moisture collection means 20, 21 for a drying container. It would have been obvious to adapt the moisture collection means of US'861 to the warming/drying container of FR'408 in view of US'401 and US'439, since the latter is used to warm and dry skiing equipment, and such means would control dripping and condensation.

Claims 5 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US'401 and US'439, as applied to claims 1-3 and 6 above, and further in view of US'346.

The claims differ from FR'408 in view of US'401 and US'439 in calling for a thermostat; however, US'346 discloses, at col. 3, lines 65-72, the use of a thermostat to control temperatures in a portable heated case for sports equipment. It would have been obvious to adapt the thermostat control means of US'346 to the heated case of FR'408 in view of US'401 and US'439 to enhance temperature control and versatility.

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Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US'401 and US'439, as applied to claims 1-3 and 6 above, and further in view of US'012.

The claims differ from FR'408 in view of US'401 and US'439 in calling for combined AC/DC battery power. However, US'012 discloses the use of exactly this in a sports equipment case. It would have been obvious to adapt the power supply means of US'012 to the case of FR'408 in view of US'401 and US'439 to allow use in diverse environments, as discussed above.

Claims 9-11, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US Pat. 3624346 (US'346) and US'439.

Referring to Figs. 1-3, the abstract, and claim 3, FR'408 discloses a portable drying and heating system, including heating elements 6, 7 in the walls, AC and DC power accommodation 8-11 inherently requiring electrical conversion means, and two moisture vents 15.

FR'408 does not explicitly disclose a thermostat or an adjustable strap, noting however that FR'408 does disclose a strap without discussing adjustability, or a reflective outer layer for the heater.

US'346 discloses, at col. 3, lines 65-72, the use of a thermostat to control temperatures in a portable heated case for sports equipment. It would have been obvious to adapt the thermostat control means of US'346 to the heated case of FR'408 to enhance temperature control and versatility. Moreover, strap adjustability does not patentably distinguish the claimed invention from the prior art; strap adjustability is obvious because it has long been conventional means to allow comfortable carrying by persons of various heights. US'439 discloses, at Fig. 3 and col. 2, lines 15-18, a reflective lining 19 on the "outer" side of the heater 12. It would have been obvious to adapt the reflective layer of US'439 to the heater of FR'408 in view of US'346 to more efficiently direct heat toward the items to be heated.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US'346 and US'439, as applied to claims 9-11, 14, and 17 above, and further in view of US Pat. 2852861.

The claim differs from FR'408 in view of US'346 only in reciting moisture collection means. US'861 discloses, at Figs. 1 and 2, moisture collection means 20, 21 for a drying container. It would have been obvious to adapt the moisture collection means of US'861 to the warming/drying container of FR'408 in view of US'346 and US'439, since the latter is used to warm and dry skiing equipment, and such means would control dripping and condensation.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR'408 in view of US'346 and US'439, as applied to claims 9-11, 14, and 17 above, and further in view of U.S. Pat. 2617012 (US'012).

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The claims differ from FR'408 in view of US'346 only in calling for combined AC/DC battery power. However, US'012 discloses the use of exactly this in a sports equipment case. It would have been obvious to adapt the power supply means of US'012 to the case of FR'408 to allow use in diverse environments, with or without mains or automobile battery power.

Alternative grounds of rejection

Claims 1, 2, 4-6, 9, 10, 12, 14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 2852861 (US'861) in view of U.S. Pat. 4927995 (US'995) and US'439.

US'861 discloses a transportable drying container with air vents 15, 18 and a water retention device 20, 21 and a centrally located support member 22, 23.

The claims differ from US'861 only in calling for a heater in the center panel and thermostat control means. However, referring to Figs. 3-5, col. 3, lines 10-19, col. 4, lines 8-13, and col. 4, line 59, through col. 5, line 12, US'995 discloses a center panel 14, 20 comprising a holder 14 and heating elements 22a-d, where the heater is inherently within the panel since it is protected by insulating layers (col. 4, lines 59-64), and thermostat control means, and its appropriateness for use as a dryer. US'439 discloses a reflective lining 19 on the "outer" side of the heater 12. It would have been obvious to form a center panel of US'861, after the manner of US'995, to more efficiently dry the contents of wet items are placed therein, and to use thermostat control means to accurately control temperature. It would have been obvious to adapt the reflective layer of US'439 to the heater of US'861 in view of US'995 to more efficiently direct heat toward the items to be heated.

Claims 3, 7, 8, 11, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'861 in view of US'995 and US'439, as applied to claims 1, 2, 4-6, 9, 10, 12, 14, and 18 above, and further in view of US'012.

The claims differ from US'861 in view of US'995 and US'439 in calling for combined AC/DC battery power and a carrying strap with adjustable engagement points. However, US'012 discloses the use of combined AC/DC battery power in a sports equipment warming case, and handle carrying means. It would have been obvious to adapt the power supply means of US'012 to the case of US'861 in view of US'995 and US'439 to allow use in diverse environments, with or without mains or automobile battery power. Moreover, the use of straps instead of handles has long been conventional and strap adjustability does not patentably distinguish the claimed invention from the prior art; strap adjustability is obvious because it was well known means to allow comfortable carrying by persons of various heights.

Claims 9-11, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR2521408 (FR'408) in view of US Pat. 3624346 (US'346) and US'439.

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Referring to Figs. 1-3, the abstract, and claim 3, FR'408 discloses a portable drying and heating system, including heating elements 6, 7 in the walls, AC and DC power accommodation 8-11 inherently requiring electrical conversion means, and two moisture vents 15.

FR'408 does not explicitly disclose a reflective layer adjacent the heater, a thermostat, or an adjustable strap, noting however that FR'408 does disclose a strap without discussing adjustability.

US'439 discloses, at Fig. 3 and col. 2, lines 15-18, a reflective lining 19 on the "outer" side of the heater 12 in a heating panel. US'346 discloses, at col. 3, lines 65-72, the use of a thermostat to control temperatures in a portable heated case for sports equipment. It would have been obvious to adapt the reflective layer of US'439 to the heater of FR'408 to more efficiently direct heat toward the items to be heated, and to adapt the thermostat control means of US'346 to the heated case of FR'408 to enhance temperature control and versatility. Moreover, strap adjustability does not patentably distinguish the claimed invention from the prior art; strap adjustability is obvious because it has long been conventional means to allow comfortable carrying by persons of various heights.

Response to Arguments

Applicant's arguments filed 1/3/07 have been considered but are not persuasive.

Applicant argues firstly that because US'439 is directed to a foot warmer, its teachings are not relevant to a "reflective outer panel on a transportable container." However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the reflector layer of US'439 is used to direct heat toward the area or object to be heated, which is immediately relevant to the problem of heating efficiency with any planar heating device intended to heat an area or object on one side of the heater. The reflector 19 of US'439 which directs heat from a planar heater toward the side where heating is desired will accomplish the same efficiency with any planar heater. Applicant is urged to review Fig. 3 of US'439, which shows the reflective outer layer 18 to be "adjacent" heating element 14.

Applicant argues that there is no motivation to adapt the moisture collection means suggested by US'861 to the case of FR'408 in view of US'401 and US'439. As discussed in the previous Office action, however, since FR'408 is intended for cold ski boots, which Applicant, if he has skied, knows entails remnants of water, and possibly snow and ice, on the boots, he will appreciate the appropriateness of moisture collection means. Moreover, ski equipment invariably concerns moisture, which openings 15 serve to vent in FR'408.

In the response filed 1/3/07 Applicant did not address this, nor did Applicant address the following discussion, which is repeated from the previous Office action.

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Applicant argues further that US'401 does not disclose a "heating element contained within a center panel." Yet the center panel can properly be defined to comprise partition 22 and heater pad 20; likewise the center panel of US'995. As shown by US'995, such a heater is conventionally placed between insulating layers, hence it will not "short out."

Without discussing either of these Examiner arguments, Applicant has merely asserted his opposing view.

The Examiner's above responses apply as well to Applicant's arguments regarding the "Alternative grounds of rejection."

The Examiner notes further that Applicant's statement in the penultimate paragraph on page 7 of the Response, that "claim 18 was not rejected under this line of rejections," is mistaken.

If Applicant should decide to continue prosecution of this application, he is encouraged to reply specifically to the arguments in the Examiner's response.

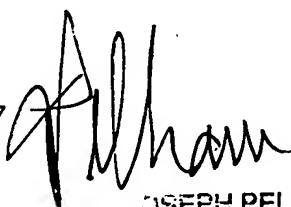
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4/2/07 
JOSEPH PELHAM
PRIMARY EXAMINER